

**Introduced by Senator Migden**

February 24, 2006

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An act to amend Sections 13352 and 13352.4 of the Vehicle Code, relating to vehicles.

**LEGISLATIVE COUNSEL'S DIGEST**

SB 1756, as introduced, Migden. Vehicles: driving under the influence: driver's license suspension: restricted driver's license.

(1) Existing law requires the Department of Motor Vehicles to immediately suspend or revoke the privilege of a person to operate a motor vehicle upon receipt of an abstract of the record of a court showing that the person has been convicted of specified provisions prohibiting driving under the influence (DUI). If the person has been convicted of a first offense, without causing bodily injury to another, existing law prohibits the reinstatement of that privilege for a period of 6 months and until the person complies with certain conditions. In a county where the board of supervisors has approved, and the State Department of Alcohol and Drug Programs has licensed one or more driving-under-the-influence programs, as defined, existing law requires a court that places a person on probation who is a first time offender whose blood alcohol concentration was 0.20% or more, by weight, or who refused to take a chemical test, and who is punished under a specified provision of law, to refer the person to participate for at least 9 months in a licensed driving-under-the-influence program.

This bill would increase the period of driver's license suspension, for a person convicted of a first DUI offense, without causing bodily injury to another, whose blood alcohol concentration was 0.20% or more, by weight, or who refused to take a chemical test, from 6

months to 10 months, if the person is placed on probation, as specified.

(2) Existing law does not authorize a person, whose driver's license was suspended for one year, due to a conviction of a first DUI offense where the person caused bodily injury to another, to obtain a restricted driver's license.

This bill would authorize a person, whose driver's license was suspended for one year due to a conviction of a first DUI offense where the person caused bodily injury to another, to obtain a restricted driver's license, under specified conditions. This bill would make conforming changes.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 13352 of the Vehicle Code is amended  
2 to read:

3 13352. (a) The department shall immediately suspend or  
4 revoke the privilege of a person to operate a motor vehicle upon  
5 the receipt of an abstract of the record of ~~any~~ a court showing  
6 that the person has been convicted of a violation of Section  
7 23152 or 23153 or subdivision (a) of Section 23109, or upon the  
8 receipt of a report of a judge of the juvenile court, a juvenile  
9 traffic hearing officer, or a referee of a juvenile court showing  
10 that the person has been found to have committed a violation of  
11 Section 23152 or 23153 or subdivision (a) of Section 23109. If  
12 ~~any~~ an offense specified in this section occurs in a vehicle  
13 defined in Section 15210, the suspension or revocation specified  
14 below shall apply to the noncommercial driving privilege. The  
15 commercial driving privilege shall be disqualified as specified in  
16 Sections 15300 to 15302, inclusive. For the purposes of this  
17 section, suspension or revocation shall be as follows:

18 (1) (A) Except as required under Section 13352.4, upon a  
19 conviction or finding of a violation of Section 23152 punishable  
20 under Section 23536, the privilege shall be suspended for a  
21 period of six months. ~~The~~

22 (B) *Except as required under Section 13352.4, upon a*  
23 *conviction or finding of a violation of Section 23152 punishable*  
24 *under Section 23536, if the court refers the person to a program*

1 *pursuant to paragraph (2) of subdivision (b) of Section 23538,*  
2 *the privilege shall be suspended for ten months.*

3 (C) *The privilege, as described in subparagraphs (A) and (B),*  
4 *may not be reinstated until the person gives proof of financial*  
5 *responsibility and gives proof satisfactory to the department of*  
6 *successful completion of a driving-under-the-influence program*  
7 *licensed pursuant to Section 11836 of the Health and Safety*  
8 *Code described in subdivision (b) of Section 23538. If the court,*  
9 *as authorized under paragraph (3) of subdivision (b) of Section*  
10 *23646, elects to order a person to enroll, participate and complete*  
11 *either program described in paragraph (4) of subdivision (b) of*  
12 *Section 23542, the department shall require that program in lieu*  
13 *of the program described in subdivision (b) of Section 23538. For*  
14 *the purposes of this paragraph, enrollment, participation, and*  
15 *completion of an approved program shall be subsequent to the*  
16 *date of the current violation. Credit may not be given to any*  
17 *program activities completed prior to the date of the current*  
18 *violation.*

19 (2) ~~Upon~~ *Except as required under Section 13352.4, upon a*  
20 *conviction or finding of a violation of Section 23153 punishable*  
21 *under Section 23554, the privilege shall be suspended for a*  
22 *period of one year. The privilege may not be reinstated until the*  
23 *person gives proof of financial responsibility and gives proof*  
24 *satisfactory to the department of successful completion of a*  
25 *driving-under-the-influence program licensed pursuant to Section*  
26 *11836 of the Health and Safety Code as described in subdivision*  
27 *(b) Section 23556. If the court, as authorized under paragraph (3)*  
28 *of subdivision (b) of Section 23646, elects to order a person to*  
29 *enroll, participate, and complete either program described in*  
30 *paragraph (4) of subdivision (b) of Section 23542, the*  
31 *department shall require that program in lieu of the program*  
32 *described in Section 23556. For the purposes of this paragraph,*  
33 *enrollment, participation, and completion of an approved*  
34 *program shall be subsequent to the date of the current violation.*  
35 *Credit may not be given to any program activities completed*  
36 *prior to the date of the current violation.*

37 (3) *Except as provided in Section 13352.5, upon a conviction*  
38 *or finding of a violation of Section 23152 punishable under*  
39 *Section 23540, the privilege shall be suspended for two years.*  
40 *The privilege may not be reinstated until the person gives proof*

1 of financial responsibility and gives proof satisfactory to the  
2 department of successful completion of a  
3 driving-under-the-influence program licensed pursuant to Section  
4 11836 of the Health and Safety Code as described in subdivision  
5 (b) of Section 23542. For the purposes of this paragraph,  
6 enrollment, participation, and completion of an approved  
7 program shall be subsequent to the date of the current violation.  
8 Credit shall not be given to any program activities completed  
9 prior to the date of the current violation. The department shall  
10 advise the person that after completion of 12 months of the  
11 suspension period, which may include credit for ~~any~~ a  
12 suspension period served under subdivision (c) of Section  
13 13353.3, the person may apply to the department for a restricted  
14 driver's license, subject to the following conditions:

15 (A) The person has satisfactorily provided, subsequent to the  
16 violation date of the current underlying conviction, either of the  
17 following:

18 (i) Proof of enrollment in an 18-month  
19 driving-under-the-influence program licensed pursuant to Section  
20 11836 of the Health and Safety Code.

21 (ii) Proof of enrollment in a 30-month  
22 driving-under-the-influence program licensed pursuant to Section  
23 11836 of the Health and Safety Code, if available in the county  
24 of the person's residence or employment.

25 (B) The person agrees, as a condition of the restriction, to  
26 continue satisfactory participation in the program described in  
27 subparagraph (A).

28 (C) The person submits the "Verification of Installation" form  
29 described in paragraph (2) of subdivision (e) of Section 13386.

30 (D) The person agrees to maintain the ignition interlock device  
31 as required under subdivision (g) of Section 23575.

32 (E) The person provides proof of financial responsibility, as  
33 defined in Section 16430.

34 (F) The person pays all administrative fees or reissue fees and  
35 any restriction fee required by the department.

36 (G) The restriction shall remain in effect for the period  
37 required in subdivision (f) of Section 23575.

38 (4) Except as provided in this paragraph, upon a conviction or  
39 finding of a violation of Section 23153 punishable under Section  
40 23560, the privilege shall be revoked for a period of three years.

1 The privilege may not be reinstated until the person gives proof  
2 of financial responsibility, and the person gives proof satisfactory  
3 to the department of successful completion of a  
4 driving-under-the-influence program licensed pursuant to Section  
5 11836 of the Health and Safety Code, as described in subdivision  
6 (b) of Section 23562. For the purposes of this paragraph,  
7 enrollment, participation, and completion of an approved  
8 program shall be subsequent to the date of the current violation.  
9 Credit shall not be given to any program activities completed  
10 prior to the date of the current violation. The department shall  
11 advise the person that after the completion of 12 months of the  
12 revocation period, which may include credit for ~~any~~ a suspension  
13 period served under subdivision (c) of Section 13353.3, the  
14 person may apply to the department for a restricted driver's  
15 license, subject to the following conditions:

16 (A) The person has satisfactorily completed, subsequent to the  
17 violation date of the current underlying conviction, either of the  
18 following:

19 (i) The initial 12 months of an 18-month  
20 driving-under-the-influence program licensed pursuant to Section  
21 11836 of the Health and Safety Code.

22 (ii) The initial 12 months of a 30-month  
23 driving-under-the-influence program licensed pursuant to Section  
24 11836 of the Health and Safety Code, if available in the county  
25 of the person's residence or employment, and the person agrees,  
26 as a condition of the restriction, to continue satisfactory  
27 participation in that 30-month program.

28 (B) The person submits the "Verification of Installation" form  
29 described in paragraph (2) of subdivision (e) of Section 13386.

30 (C) The person agrees to maintain the ignition interlock device  
31 as required under subdivision (g) of Section 23575.

32 (D) The person provides proof of financial responsibility, as  
33 defined in Section 16430.

34 (E) The person pays all applicable reinstatement or reissue  
35 fees and any restriction fee required by the department.

36 (F) The restriction shall remain in effect for the period  
37 required in subdivision (f) of Section 23575.

38 (5) Except as provided in this paragraph, upon a conviction or  
39 finding of a violation of Section 23152 punishable under Section  
40 23546, the privilege shall be revoked for a period of three years.

1 The privilege may not be reinstated until the person files proof of  
2 financial responsibility and gives proof satisfactory to the  
3 department of successful completion of one of the following  
4 programs: an 18-month driving-under-the-influence program  
5 licensed pursuant to Section 11836 of the Health and Safety  
6 Code, as described in subdivision (b) or (c) of Section 23548, or,  
7 if available in the county of the person's residence or  
8 employment, a 30-month driving-under-the-influence program  
9 licensed pursuant to Section 11836 of the Health and Safety  
10 Code, or a program specified in Section 8001 of the Penal Code.  
11 For the purposes of this paragraph, enrollment, participation, and  
12 completion of an approved program shall be subsequent to the  
13 date of the current violation. Credit shall not be given to any  
14 program activities completed prior to the date of the current  
15 violation. The department shall advise the person that after  
16 completion of 12 months of the revocation period, which may  
17 include credit for ~~any~~ a suspension period served under  
18 subdivision (c) of Section 13353.3, the person may apply to the  
19 department for a restricted driver's license, subject to the  
20 following conditions:  
21 (A) The person has satisfactorily completed, subsequent to the  
22 violation date of the current underlying conviction, either of the  
23 following:  
24 (i) The initial 12 months of an 18-month  
25 driving-under-the-influence program licensed pursuant to Section  
26 11836 of the Health and Safety Code.  
27 (ii) The initial 12 months of a 30-month  
28 driving-under-the-influence program licensed pursuant to Section  
29 11836 of the Health and Safety Code, if available in the county  
30 of the person's residence or employment, and the person agrees,  
31 as a condition of the restriction, to continue satisfactory  
32 participation in the 30-month driving-under-the-influence  
33 program.  
34 (B) The person submits the "Verification of Installation" form  
35 described in paragraph (2) of subdivision (e) of Section 13386.  
36 (C) The person agrees to maintain the ignition interlock device  
37 as required under subdivision (g) of Section 23575.  
38 (D) The person provides proof of financial responsibility, as  
39 defined in Section 16430.

1 (E) An individual convicted of a violation of Section 23152  
2 punishable under Section 23546 may also, at any time after  
3 sentencing, petition the court for referral to an 18-month  
4 driving-under-the-influence program licensed pursuant to Section  
5 11836 of the Health and Safety Code, or, if available in the  
6 county of the person's residence or employment, a 30-month  
7 driving-under-the-influence program licensed pursuant to Section  
8 11836 of the Health and Safety Code. Unless good cause is  
9 shown, the court shall order the referral.

10 (F) The person pays all applicable reinstatement or reissue  
11 fees and any restriction fee required by the department.

12 (G) The restriction shall remain in effect for the period  
13 required in subdivision (f) of Section 23575.

14 (6) Except as provided in this paragraph, upon a conviction or  
15 finding of a violation of Section 23153 punishable under Section  
16 23550.5 or 23566, the privilege shall be revoked for a period of  
17 five years. The privilege may not be reinstated until the person  
18 gives proof of financial responsibility and proof satisfactory to  
19 the department of successful completion of one of the following  
20 programs: an 18-month driving-under-the-influence program  
21 licensed pursuant to Section 11836 of the Health and Safety  
22 Code, as described in subdivision (b) of Section 23568 or, if  
23 available in the county of the person's residence or employment,  
24 a 30-month driving-under-the-influence program licensed  
25 pursuant to Section 11836 of the Health and Safety Code, or a  
26 program specified in Section 8001 of the Penal Code. For the  
27 purposes of this paragraph, enrollment, participation, and  
28 completion of an approved program shall be subsequent to the  
29 date of the current violation. Credit shall not be given to any  
30 program activities completed prior to the date of the current  
31 violation. The department shall advise the person that after the  
32 completion of 12 months of the revocation period, which may  
33 include credit for ~~any~~ a suspension period served under  
34 subdivision (c) of Section 13353.3, the person may apply to the  
35 department for a restricted driver's license, subject to the  
36 following conditions:

37 (A) The person has satisfactorily completed, subsequent to the  
38 violation date of the current underlying conviction, either of the  
39 following:

1 (i) The initial 12 months of a 30-month  
2 driving-under-the-influence program licensed pursuant to Section  
3 11836 of the Health and Safety Code, if available in the county  
4 of the person's residence or employment, and the person agrees,  
5 as a condition of the restriction, to continue satisfactory  
6 participation in the 30-month driving-under-the-influence  
7 program.

8 (ii) The initial 12 months of an 18-month  
9 driving-under-the-influence program licensed pursuant to Section  
10 11836 of the Health and Safety Code, if a 30-month program is  
11 unavailable in the person's county of residence or employment.

12 (B) The person submits the "Verification of Installation" form  
13 described in paragraph (2) of subdivision (e) of Section 13386.

14 (C) The person agrees to maintain the ignition interlock device  
15 as required under subdivision (g) of Section 23575.

16 (D) The person provides proof of financial responsibility, as  
17 defined in Section 16430.

18 (E) ~~Any~~An individual convicted of a violation of Section  
19 23153 punishable under Section 23566 may also, at any time  
20 after sentencing, petition the court for referral to an 18-month  
21 driving-under-the-influence program or, if available in the county  
22 of the person's residence or employment, a 30-month  
23 driving-under-the-influence program licensed pursuant to Section  
24 11836 of the Health and Safety Code. Unless good cause is  
25 shown, the court shall order the referral.

26 (F) The person pays all applicable reinstatement or reissue  
27 fees and any restriction fee required by the department.

28 (G) The restriction shall remain in effect for the period  
29 required in subdivision (f) of Section 23575.

30 (7) Except as provided in this paragraph, upon a conviction or  
31 finding of a violation of Section 23152 punishable under Section  
32 23550 or 23550.5, or Section 23153 punishable under Section  
33 23550.5 the privilege shall be revoked for a period of four years.  
34 The privilege may not be reinstated until the person gives proof  
35 of financial responsibility and proof satisfactory to the  
36 department of successful completion of one of the following  
37 programs: an 18-month driving-under-the-influence program  
38 licensed pursuant to Section 11836 of the Health and Safety  
39 Code, or, if available in the county of the person's residence or  
40 employment, a 30-month driving-under-the-influence program



1 licensed pursuant to Section 11836 of the Health and Safety  
2 Code, or a program specified in Section 8001 of the Penal Code.  
3 For the purposes of this paragraph, enrollment, participation, and  
4 completion of an approved program shall be subsequent to the  
5 date of the current violation. Credit shall not be given to any  
6 program activities completed prior to the date of the current  
7 violation. The department shall advise the person that after the  
8 completion of 12 months of the revocation period, which may  
9 include credit for ~~any~~ a suspension period served under  
10 subdivision (c) of Section 13353.3, the person may apply to the  
11 department for a restricted driver's license, subject to the  
12 following conditions:

13 (A) The person has satisfactorily completed, subsequent to the  
14 violation date of the current underlying conviction, either of the  
15 following:

16 (i) The initial 12 months of an 18-month  
17 driving-under-the-influence program licensed pursuant to Section  
18 11836 of the Health and Safety Code.

19 (ii) The initial 12 months of a 30-month  
20 driving-under-the-influence program licensed pursuant to Section  
21 11836 of the Health and Safety Code, if available in the county  
22 of the person's residence or employment, and the person agrees,  
23 as a condition of the restriction, to continue satisfactory  
24 participation in the 30-month driving-under-the-influence  
25 program.

26 (B) The person submits the "Verification of Installation" form  
27 described in paragraph (2) of subdivision (e) of Section 13386.

28 (C) The person agrees to maintain the ignition interlock device  
29 as required under subdivision (g) of Section 23575.

30 (D) The person provides proof of financial responsibility, as  
31 defined in Section 16430.

32 (E) An individual convicted of a violation of Section 23152  
33 punishable under Section 23550 may also, at any time after  
34 sentencing, petition the court for referral to an 18-month  
35 driving-under-the-influence program or, if available in the county  
36 of the person's residence or employment, a 30-month  
37 driving-under-the-influence program licensed pursuant to Section  
38 11836 of the Health and Safety Code. Unless good cause is  
39 shown, the court shall order the referral.

1 (F) The person pays all applicable reinstatement or reissue  
2 fees and any restriction fee required by the department.

3 (G) The restriction shall remain in effect for the period  
4 required in subdivision (f) of Section 23575.

5 (8) Upon a conviction or finding of a violation of subdivision  
6 (a) of Section 23109 that is punishable under subdivision (e) of  
7 that section, the privilege shall be suspended for a period of 90  
8 days to six months, if ordered by the court. The privilege may not  
9 be reinstated until the person gives proof of financial  
10 responsibility, as defined in Section 16430.

11 (9) Upon a conviction or finding of a violation of subdivision  
12 (a) of Section 23109 that is punishable under subdivision (f) of  
13 that section, the privilege shall be suspended for a period of six  
14 months, if ordered by the court. The privilege may not be  
15 reinstated until the person gives proof of financial responsibility,  
16 as defined in Section 16430.

17 (b) For the purpose of paragraphs (2) to (9), inclusive, of  
18 subdivision (a), the finding of the juvenile court judge, the  
19 juvenile hearing officer, or the referee of a juvenile court of a  
20 commission of a violation of Section 23152 or 23153 or  
21 subdivision (a) of Section 23109, as specified in subdivision (a)  
22 of this section, is a conviction.

23 (c) A judge of a juvenile court, juvenile hearing officer, or  
24 referee of a juvenile court shall immediately report the findings  
25 specified in subdivision (a) to the department.

26 (d) A conviction of an offense in ~~any~~ a state, territory, or  
27 possession of the United States, the District of Columbia, the  
28 Commonwealth of Puerto Rico, or Canada that, if committed in  
29 this state, would be a violation of Section 23152, is a conviction  
30 of Section 23152 for the purposes of this section, and a  
31 conviction of an offense that, if committed in this state, would be  
32 a violation of Section 23153, is a conviction of Section 23153 for  
33 the purposes of this section. The department shall suspend or  
34 revoke the privilege to operate a motor vehicle pursuant to this  
35 section upon receiving notice of that conviction.

36 (e) For the purposes of the restriction conditions specified in  
37 paragraphs (3) to (7), inclusive, of subdivision (a), the  
38 department shall terminate the restriction imposed pursuant to  
39 this section and shall suspend or revoke the person's driving  
40 privilege upon receipt of notification from the

1 driving-under-the-influence program that the person has failed to  
2 comply with the program requirements. The person's driving  
3 privilege shall remain suspended or revoked for the remaining  
4 period of the original suspension or revocation imposed under  
5 this section and until all reinstatement requirements described in  
6 this section are met.

7 (f) For the purposes of this section, completion of a program is  
8 the following:

9 (1) Satisfactory completion of all program requirements  
10 approved pursuant to program licensure, as evidenced by a  
11 certificate of completion issued, under penalty of perjury, by the  
12 licensed program.

13 (2) Certification, under penalty of perjury, by the director of a  
14 program specified in Section 8001 of the Penal Code, that the  
15 person has completed a program specified in Section 8001 of the  
16 Penal Code.

17 (g) The holder of a commercial driver's license who was  
18 operating a commercial motor vehicle, as defined in Section  
19 15210, at the time of a violation that resulted in a suspension or  
20 revocation of the person's noncommercial driving privilege  
21 under this section is not eligible for the restricted driver's license  
22 authorized under paragraphs (3) to (7), inclusive, of subdivision  
23 (a).

24 SEC. 2. Section 13352.4 of the Vehicle Code is amended to  
25 read:

26 13352.4. (a) Except as provided in subdivision (h), the  
27 department shall issue a restricted driver's license to a person  
28 whose driver's license was suspended under ~~paragraph (1)~~  
29 *paragraphs (1) and (2)* of subdivision (a) of Section 13352, if the  
30 person meets all of the following requirements:

31 (1) Submits proof satisfactory to the department of enrollment  
32 in, or completion of, a driving-under-the-influence program  
33 licensed pursuant to Section 11836 of the Health and Safety  
34 Code, as described in subdivision (b) of Section 23538.

35 (2) Submits proof of financial responsibility, as defined in  
36 Section 16430.

37 (3) Pays all applicable reinstatement or reissue fees and any  
38 restriction fee required by the department.

39 (b) The restriction of the driving privilege shall become  
40 effective when the department receives all of the documents and

1 fees required under subdivision (a) and shall remain in effect  
2 until the final day of the original suspension imposed under  
3 paragraph (1) of subdivision (a) of Section 13352, or until the  
4 date all reinstatement requirements described in Section 13352  
5 have been met, whichever date is later, and may include credit  
6 for any suspension period served under subdivision (c) of Section  
7 13353.3.

8 (c) The restriction of the driving privilege shall be limited to  
9 the hours necessary for driving to and from the person's place of  
10 employment, driving during the course of employment, and  
11 driving to and from activities required in the  
12 driving-under-the-influence program.

13 (d) Whenever the driving privilege is restricted under this  
14 section, proof of financial responsibility, as defined in Section  
15 16430, shall be maintained for three years. If the person does not  
16 maintain that proof of financial responsibility at any time during  
17 the restriction, the driving privilege shall be suspended until the  
18 proof required under Section 16484 is received by the  
19 department.

20 (e) For the purposes of this section, enrollment, participation,  
21 and completion of an approved program shall be subsequent to  
22 the date of the current violation. Credit may not be given to a  
23 program activity completed prior to the date of the current  
24 violation.

25 (f) The department shall terminate the restriction issued under  
26 this section and shall suspend the privilege to operate a motor  
27 vehicle pursuant to paragraph (1) of subdivision (a) of Section  
28 13352 immediately upon receipt of notification from the  
29 driving-under-the-influence program that the person has failed to  
30 comply with the program requirements. The privilege shall  
31 remain suspended until the final day of the original suspension  
32 imposed under paragraph (1) of subdivision (a) of Section 13352,  
33 or until the date all reinstatement requirements described in  
34 Section 13352 have been met, whichever date is later.

35 (g) The holder of a commercial driver's license who was  
36 operating a commercial motor vehicle, as defined in Section  
37 15210, at the time of a violation that resulted in a suspension or  
38 revocation of the person's noncommercial driving privilege  
39 under paragraph (1) of subdivision (a) of Section 13352 is not

1 eligible for the restricted driver's license authorized under this  
2 section.

3 (h) If, upon conviction, the court has made the determination,  
4 as authorized under subdivision (d) of Section 23536 or  
5 paragraph (3) of subdivision (a) of Section 23538, to disallow the  
6 issuance of a restricted driver's license, the department may not  
7 issue a restricted driver's license under this section.

8 ~~(i) This section shall become operative on September 20,~~  
9 ~~2005.~~

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